

5.05 Natural Resources Conditional Use Permit

5.05.1 Natural Resources Conditional Use Permit (CUP) Requirements. In addition to any applicable requirements in Section 5.04, any natural resource development or mining (such as exploration, development, and recovery operations relating to oil and gas, coal bed methane production including test wells, production wells, compressor stations, etc.; commercial quarries; surface and underground mining; and commercial logging or timber harvest) shall require review under the Natural Resources CUP process described in these Regulations. The County Commission may grant such permit only if it is found that:

- a. The use conforms to the objectives of the Gallatin County Growth Policy and the intent of these Regulations.
- b. The use will not adversely affect nearby properties, residents, groundwater, streams and wetlands.
- c. That non-renewable resource exploration and development occurs in a responsible manner.
- d. The use contributes and guarantees payment of an appropriate share of the costs for public services and facilities.
- e. That adequate financial security, as determined by the Gallatin County Attorney, has been provided to mitigate any such adverse effect.
- f. The use meets density, coverage, yard, height, and all other regulations of the District in which it is located, unless otherwise provided in these Regulations.
- g. The use meets all other applicable federal, state, and local regulations.
- h. A public hearing, after notice has been given, has been held.

1.05.2 Preliminary Application. Applicant shall submit a preliminary application, accompanied by the appropriate fee, to the Planning Department, including all required components as follows:

1. Twelve (12) copies of a completed conditional use permit application form and an Initial Development Plan, prepared by the applicant or applicant's agent. Said plan, which shall be the preparatory basis for the Environmental Impact Study, shall address all of the following:
 - a. Cover letter describing project and submittal material.
 - b. Copy of all associated mineral leases.
 - c. Copy of all applicable orders from the Montana Board of Oil and Gas Conservation, and with associated stipulations.
 - d. Name and location of all water wells, springs, and surface water within a one-and-half mile radius of proposed site.
 - e. Detailed site inventory map and site development plan (1" = 50'), to include all existing and proposed structures, well pad location(s), rights-of-way, fencing, lighting, pipelines, pertinent surface features, areas of wildlife and wildlife habitat, and all development and mitigation measures associated with the application. Applicant shall submit color photos of well location and of area from proposed well to

north, south, east, and west.

- f. Complete written description of project including but not limited to: proposed hours of operation; duration of project; operation of project, including staffing schedule(s) and estimated trips per day; traffic study and/ or other information as required by the Gallatin County Road and Bridge Superintendent; fire and disaster mitigation plan(s); etc.
- g. An approved Noxious Weed Control and Revegetation Plan through the Gallatin County Weed Control District.
- h. Plans for reclamation of all disturbances associated with the project(s).
- i. Any additional information as deemed necessary by the Planning Department during the Planning Department's initial review.

2. Name and address of all property owners within one-and-a-half mile radius of proposed project, including postage for certified mail to each address.

5.05.3 Final Application. Applicant shall submit a Final Application to the Planning Department, accompanied by applicable fee. The Final Application shall include a completed conditional use permit application, a Final Development Plan, an Environmental Impact Statement (EIS), conducted by a third-party Montana State licensed professional engineer (PE) qualified to evaluate the project's impacts, at the applicant's expense; and all Performance Bonds and other securities and fees as indicated below.

1. Applicant shall provide the Final Development Plan based on information provided in the EIS. The Final Development Plan shall:
 - a. Provide evidence of the fee simple surface owner's consent.
 - b. Document plans to protect property values of surrounding properties.
 - c. Document plans for fire protection and emergency response.
 - d. Document adequate water quantity for the project.
 - e. Demonstrate plans for protecting surface and ground water quality.
 - f. Demonstrate plans for conservation of important fish, wildlife and plant habitat.
 - g. Demonstrate plans for compliance with local, state and federal air quality regulations and/ or standards.
 - h. Demonstrate plans for landscaping and its long-term maintenance so as to limit soil erosion and be in compliance with all local, state and federal soil management and conservation regulations and/ or standards.
 - i. Demonstrate plans to comply with all applicable weed control regulations.
 - j. Include a schedule of phased-in development to diffuse

impacts over time.

- k. Demonstrate plans for compliance with MCA §85-2-205 and MCA §82-11-175, and any other applicable local, state and federal laws regarding disposal of all ground water involved with the project.
- l. Demonstrate plans for sufficient reclamation for any and all disturbances associated with the project(s).

2. The EIS shall include:

- a. Appraisal of current property values for all properties within one-and-a-half miles of the boundaries of the proposal.
- b. An analysis of effects of proposed development on fire and emergency response systems.
- c. Thorough collection of fish, wildlife and plant inventories within the proposal's boundaries.
- d. Collection of baseline data of existing surface and ground water quality and quantity.
- e. Collection of baseline data of existing air quality.
- f. Collection of baseline data of existing noise levels.
- g. An analysis by a qualified person or entity of the Final Development Plan's specific measures to protect and conserve:
 - (1) property values;
 - (2) water quality and quantity;
 - (3) agricultural and conservation usage;
 - (4) plant and wildlife habitat;
 - (5) air quality; and
 - (6) noise levels.
- h. A monitoring schedule for effective third party monitoring, on at least a monthly basis, by a State of Montana licensed and bonded environmental engineer, of all development, as stated in the submitted Final Development Plan. The County Commission shall approve the monitoring schedule. The licensed and bonded, environmental engineer third party monitor shall be agreed upon by the County Commission and the applicant. The Monitoring Schedule shall contain all the requirements listed in Section 5.05.4.

5.05.4 Monitoring Schedule. The Monitoring Schedule must provide a mechanism for prompt notification to any and all local, state, and federal agencies involved in any permit or certification required for the proposal. The purpose of such notification is to ensure adequate enforcement of existing local, state, and federal laws and regulations to protect private property and other rights of Montana citizens and Montana's natural resources. The Monitoring Schedule shall require the applicant prepare and submit to the Planning Department a Monthly Monitoring Report.

1. The Monthly Monitoring Report shall include a description of all data collected during the period, as well as data trends collected over time, detailed descriptions of any and all spills, leaks, contaminations, regardless of whether the spill, leak, or contamination is a violation of local, state, or federal laws or regulations. The Monthly Monitoring Report shall also include a detailed description of any violation of local, state, or federal laws or regulations and any corrective action taken. The Monthly Monitoring Report shall be a requirement of conditional approval and the failure to supply Monthly Monitoring Report(s) may be grounds for revocation of a Natural Resources CUP.

5.05.5 Conditional Approval. Final Application for a Natural Resources CUP may be approved, conditionally approved or denied by the County Commission. If a Final Application is denied, the denial shall constitute a finding that the applicant has failed to sufficiently demonstrate that the conditions required for approval do exist.

The County Commission shall make the granting of the Natural Resources CUP subject to reasonable limitations or conditions as it may deem necessary to protect the health, safety and welfare of the citizens of the County and District; to mitigate or avoid any and all adverse impacts on nearby property, residents, groundwater, streams and wetlands; to ensure that resource exploration and development occurs in a responsible manner and contributes and guarantees payment of an appropriate share of the costs for public services and facilities; and to make the proposed Natural Resource conditional use more compatible and consistent with the Reese Creek Zoning Regulations and the Gallatin County Growth Policy. Said conditions may include but not be limited to the following:

- a. Specific requirements for vehicular ingress and egress.
- b. Specific requirements of hours of operation.
- c. Specific requirements for the discharge of groundwater and surface water.
- d. A fee for discharged effluent, based upon one and one-half times the total estimated or actual costs of all environmental cleanup or mitigation performed by or for any public agency, in order to achieve compliance with these Regulations.
- e. Specific requirements for control of odors, smoke, dust, airborne particles, vibration, glare and noise emissions from point and non-point sources.
- f. Specific requirements for placement and height of structures required for the conditional use on the subject property.
- g. Specific requirements for dedication, improvements and/or maintenance of rights-of-way.
- h. Limitation of length of time or term such conditional use may be permitted.
- i. Conditions for the approval may include changes to the Development Plan based upon information and data from the

ELS and the public hearing(s) and the written comments from the public, so as to improve environmental and property protection.

- j. The County Commission shall impose conditions requiring the applicant to use best available low-impact technologies, such as aquifer recharge, clustered development, directional drilling, mufflers for compressor stations, discharge water desalination, infiltration or treatment, etc., to minimize impacts on underground water reserves, rivers and streams, and surface resources.
- k. The County Commission shall impose conditions requiring the applicant to guarantee complete reclamation of all disturbed areas. This guarantee shall be accomplished by requiring, in addition to the Monitoring Performance Bond, *supra*, an applicant for any mineral, oil and gas exploration or extraction, along with all contactors and subcontractors to post separate site-specific performance bonds for each tract of property affected by the proposed Natural Resources CUP. Said performance bonds shall be approved by the Gallatin County Attorney, payable to Gallatin County, and shall be equal to or greater than the current value of the property plus the potential cleanup cost of any resultant air, land or water pollution or degradation, as estimated by the required Development Plan and Environmental Impact Study. Failure to maintain adequate performance bonding shall be cause for revocation of the Natural Resources CUP.

5.05.5 Expiration/ Extension. The County Commission may issue a Natural Resources CUP for a definite term. Extensions can be obtained through written application with accompanying fee made at least thirty (30) days prior to expiration. A public hearing will be held and adjacent property owners will be notified by certified mail. Notice of the public hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation.